

ARTICLE 5

Land Use and Development

Permit Procedures

Chapter 17.50 - Application Filing and Processing	5-3
17.50.010 - Purpose of Article	5-3
17.50.020 - Authority for Land Use and Zoning Decisions	5-3
17.50.030 - Concurrent Permit Processing	5-3
17.50.040 - Application Preparation and Filing	5-5
17.50.050 - Application Fees	5-6
17.50.060 - Initial Application Review	5-6
17.50.070 - Environmental Assessment	5-8
17.50.080 - Staff Report and Recommendations	5-8
Chapter 17.52 - Permit Approval or Disapproval	5-9
17.52.010 - Purpose of Chapter	5-9
17.52.020 - Home Occupation Permits	5-9
17.52.030 - Site Plan and Architectural Approval	5-13
17.52.040 - Temporary Activity Permits	5-17
17.52.050 - Use Permits	5-22
17.52.060 - Variances and Administrative Deviations	5-24
17.52.070 - Planned Development Permits	5-29
17.52.080 - Certificates of Occupancy	5-32
Chapter 17.54 - Permit Implementation, Time Limits, and Extensions	5-33
17.54.010 - Purpose of Chapter	5-33
17.54.020 - Effective Dates	5-33
17.54.030 - Performance Guarantees	5-33
17.54.040 - Time Limits and Extensions	5-34
17.54.050 - Changes to an Approved Project	5-35
17.54.060 - Permits to Run with the Land	5-36
17.54.070 - Resubmittals	5-36
17.54.080 - Covenants of Easements	5-37

Contents

CHAPTER 17.50 - APPLICATION FILING AND PROCESSING

Sections:

- 17.50.010 - Purpose of Article
- 17.50.020 - Authority for Land Use and Zoning Decisions
- 17.50.030 - Concurrent Permit Processing
- 17.50.040 - Application Preparation and Filing
- 17.50.050 - Application Fees
- 17.50.060 - Initial Application Review
- 17.50.070 - Environmental Assessment
- 17.50.080 - Staff Report and Recommendations

17.50.010 - Purpose of Article

This Article provides procedures and requirements for the preparation, filing, and processing of applications for the land use permits required by this Zoning Ordinance.

17.50.020 - Authority for Land Use and Zoning Decisions

Table 5-1 (Review Authority) identifies the City official or body responsible for reviewing and making decisions on each type of application, land use permit, and other approvals required by this Zoning Ordinance.

17.50.030 - Concurrent Permit Processing

When a single project incorporates different land uses or features so that this Zoning Ordinance requires multiple land use permit applications, the applicable review authority may choose to require that all applications be reviewed, and approved or disapproved, by the highest level review authority assigned by Table 5-1 to any of the required applications.

Table 5-1 - REVIEW AUTHORITY

Type of Decision	See Section	Role of Review Authority (1)			
		Director	SPARC (2)	Planning Commission	City Council

Administrative and Amendments

General Plan amendments	17.66			Recommend	Decision
Interpretations	17.02	Decision (3)		Appeal	Appeal
Zoning text amendments	17.66			Recommend	Decision
Zoning Map amendments	17.66			Recommend	Decision

Land Use Permits and other Development Approvals

Administrative Deviations	17.52.060	Decision (3)		Appeal	Appeal
Certificates of Occupancy	17.52.080	Decision (3)		Appeal	Appeal
Home Occupation Permits	17.52.020	Decision (3)		Appeal	Appeal
Planned Development Permit	17.52.070			Decision	Appeal
Sign Permits	17.36.030	Decision (3)	Decision		
Site Plan and Architectural Approval, for dwellings in the, RMD, and RHD zones,	17.52.030	Decision (3)		Appeal	Appeal
Site Plan and Architectural Approval, for dwellings in the RMD and RHD zones, and all others	17.52.030	Recommend	Decision	Appeal	Appeal
Temporary Use Permits	17.52.040	Decision (3)		Appeal	Appeal
Use Permits	17.52.050	Recommend		Decision	Appeal
Variances	17.52.060			Decision	Appeal

Notes:

- (1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 17.64 (Appeals).
- (2) "SPARC" means the Site Plan and Architectural Approval Committee. (See Chapter 17.80)
- (3) The Director may defer action on permit applications and refer the items to the Commission for the final decision.

17.50.040 - Application Preparation and Filing

The preparation and filing of applications for land use permits, amendments (e.g., General Plan, Zoning Map, and Zoning Ordinance), and other matters pertaining to this Zoning Ordinance shall comply with the following requirements.

A. Pre-application review.

1. A prospective applicant or agent is strongly encouraged to request a pre-application review with the Department before completion of project design and the formal submittal of a permit application.
2. A request by an applicant for pre-application review, accompanied by preliminary project plans and designs and the required filing fee, will be reviewed by affected City departments and other selected agencies.
3. The reviewing City staff members will inform the applicant of requirements as they apply to the proposed development project, provide a preliminary list of issues that will likely be of concern during formal application review, suggest possible alternatives or modifications to the project, and identify any technical studies that may be necessary for the environmental review process when a formal application is filed.
4. Neither the preapplication review nor information and/or pertinent policies provided by the Department shall be construed as a Department recommendation for approval or disapproval of the application/ project.

B. Application contents and fee. Applications shall include the forms provided by the Department, and all information and materials required by the application content requirements handout provided by the Department for the specific type of application (e.g., Use Permit, Variance, or others), and the filing fee required by the Council's Fee Resolution.

C. Eligibility, filing. All land use permit and other applications required by this Zoning Ordinance shall be filed with the Department. Applications may be made by:

1. The owner of the subject property; or
2. Any other person, agent, or representative, with the written consent of the property owner.

D. Filing date. The filing date of an application shall be the date on which the Department receives the last submission, map, plan, or other material required as a part of that application by Subsection B of this section., including appropriate filing fees, in compliance with Section 17.50.060 (Initial Application Review) and deemed complete by the Director.

17.50.050 - Application Fees**A. Filing fees required.**

1. The Council shall, by resolution, establish a schedule of fees for amendments, entitlements, and other matters pertaining to this Ordinance, referred to as the Council's Fee Resolution.
2. The schedule of fees may be changed only by resolution of the Council.
3. The City's processing fees are cumulative. For example, if an application for a Parcel Map also requires an Administrative Deviation, both fees shall be charged.
4. Processing shall not commence on an application until all required fees have been paid.
5. Without the application fee the application shall not be deemed complete.
6. The City is not required to continue processing any application unless additionally required fees are paid in full.
7. Failure to pay the applicable fees is grounds for disapproval of the application.

B. Refunds and withdrawals.

1. Recognizing that filing fees are utilized to cover City costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, no refunds due to a disapproval are allowed.
2. In the case of a withdrawal, the Director may authorize a partial refund based upon the pro-rated costs to-date and determination of the status of the application at the time of withdrawal.

17.50.060 - Initial Application Review

All applications filed with the Department in compliance with this Zoning Ordinance shall be initially processed as follows.

A. Completeness review. The Director shall review all applications for completeness and accuracy before they are accepted as being complete in compliance with Section 17.50.040.B (Application contents and fees), above.

1. **Notification of applicant.** The applicant shall be informed in writing within 30 days of submittal, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the letter, shall be provided. All additional information needed shall be identified in the letter providing notice of an incomplete application.

2. **Appeal of determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/ or that the information requested by the Director is not required, the applicant may appeal the determination in compliance with Chapter 17.64 (Appeals).
3. **Environmental information.** The Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with Section 17.50.070 (Environmental Assessment), below.
4. **Expiration of application.** If the applicant does not provide the additional information required in compliance with Subsection A.1, above, within 120 days after the date of the letter requesting the additional information, the Director may consider the application withdrawn if the Director determines that reasonable progress toward completion of the application has not occurred. Application processing shall not resume thereafter until a new application is filed, including fees, plans, exhibits, and other materials that are required for any project on the same site.
5. **Criteria for acceptance.** An application shall not be accepted as complete unless or until the Director determines that it:
 - a. Is consistent with the General Plan, and any applicable specific plan; development agreement, or previously approved Use Permit;
 - b. In compliance with zoning district requirements applicable to the site, except for a Zoning Map amendment or rezoning filed in compliance with Chapter 17.66 (Amendments); and
 - c. Includes all information and materials required by Section 17.50.040.B (Application contents and fees).
6. **Violations on the site.**
 - a. The Director shall not find the application complete, and/ or shall not process or approve the application, if conditions exist on the site in violation of this Zoning Ordinance or any permit or other approval granted in compliance with this Zoning Ordinance, other than an application for the approval, entitlement, or permit, if any, needed to correct the violation.
 - b. The Director's authority under this Subsection shall apply whether:
 - (1) The current applicant was the owner of the subject property at the time the violation occurred; or
 - (2) The applicant is the current owner of the subject property with or without actual or constructive knowledge of the violation at the time of acquisition of the subject property.

- c. The Director's decision may be appealed in compliance with Chapter 17.64 (Appeals).

B. Referral of application. At the discretion of the Director, or where otherwise required by this Zoning Ordinance, State, or Federal law, any application filed in compliance with this Zoning Ordinance may be referred to any public agency that may be affected by or have an interest in the proposed land use activity.

17.50.070 - Environmental Assessment

After acceptance of a complete application, the project shall be reviewed as required by the California Environmental Quality Act (CEQA).

17.50.080 - Staff Report and Recommendations

A. Staff evaluation. The Director shall review all applications filed in compliance with this Chapter to determine whether they comply with the provisions of this Zoning Ordinance, other applicable provisions of this Code, and the General Plan.

B. Staff report preparation.

1. The Department staff shall prepare a staff report that describes conclusions about the proposed land use and any development as to its compliance and consistency with the provisions of this Zoning Ordinance, other applicable provisions of this Code, the General Plan, and any applicable specific plan.
2. The staff report shall include recommendations on the approval, approval with conditions, or disapproval of the application, based on the project evaluation, and consideration of information provided by an initial study or environmental impact report.

C. Report distribution. Staff reports shall be furnished to the applicants at the same time as they are provided to the review authority before the public hearing on the application.

CHAPTER 17.52 - PERMIT APPROVAL OR DISAPPROVAL

Sections:

- 17.52.010 - Purpose of Chapter
- 17.52.020 - Home Occupation Permits
- 17.52.030 - Site Plan and Architectural Approval
- 17.52.040 - Temporary Activity Permits
- 17.52.050 - Use Permits
- 17.52.060 - Variances and Administrative Deviations
- 17.52.070 - Planned Development Permits
- 17.52.080 - Certificates of Occupancy

17.52.010 - Purpose of Chapter

- A. **Permit review procedures.** This Chapter provides procedures for the final review, and approval or disapproval of the land use permit applications established by this Zoning Ordinance.
- B. **Subdivision review procedures.** Procedures and standards for the review and approval of subdivision maps are found in Article 5 (Subdivision Procedures).
- C. **Application filing and initial processing.** Where applicable, the procedures of this Chapter are carried out after those described in Chapter 17.50 (Application Filing and Processing), for each application.

17.52.020 - Home Occupation Permits

- A. **Purpose.** The purpose of this Section is to allow for the conduct of home occupations which are deemed incidental to and compatible with surrounding residential uses. A home occupation represents a legal commercial enterprise conducted by an occupant(s) of the dwelling.
- B. **Application.** The application shall be filed with the Department in compliance with Chapter 17.50 (Application Filing and Processing). A Home Occupation Permit may be approved, modified, conditioned, or disapproved by the Director. The Director may defer action and refer the application to the Commission.
- C. **Allowed home occupations.** The following are deemed appropriate business activities when conducted by the resident(s) of a dwelling in a manner accessory to and compatible with the residential characteristics of the surrounding neighborhood. Allowable home occupations shall be limited to the following activities:
 - 1. Art, music, and similar fine-art related lessons that do not generate more than six additional vehicle trips to the dwelling each day;

2. Artist's and sculptor's studio activities;
3. Offices for building trade constructors, gardeners, and internet businesses,
4. Sewing, including dressmaking and millinery activities;
5. Small hand craft;
6. An office for an architect, attorney, counselor, insurance agent,, planner, technical advisor, tutor, or writer; or
7. Mobile businesses, i.e., dog grooming, car washing.
8. Other uses the Director deems to be of the same general character as those listed above, and not detrimental to the applicable residential zoning district and surrounding neighborhood.

D. Prohibited home occupations. The following list presents example commercial uses that are not incidental to or compatible with residential activities, are suitable only in nonresidential zoning districts, and are therefore prohibited:

1. Adult business;
2. Barber and beauty shop;
3. Businesses which entail the breeding, grooming, harboring, raising, or training of dogs, cats, or other animals on the premises;
4. Carpentry and cabinet making (does not prohibit a normal wood-working hobby operation);
5. Dance club/ night club;
6. Fortune telling (Psychic);
7. Massage parlor;
8. Medical and dental offices, clinics, and laboratories;
9. Mini-storage;
10. Plant nursery;
11. Vehicle repair (body or mechanical), upholstery, and painting. (This does not prohibit "mobile" minor repair or detailing at the customer's location);
12. Welding and machining; and

13. Other similar uses determined by the Director not to be incidental to or compatible with residential activities.

E. Director's decision. The Director may approve a Home Occupation Permit that would be operated in full compliance with Subsection F. (Operating Standards) below, or the Director may defer action and refer the application to the Commission.

F. Operating standards. Home occupations shall comply with all of the following operating standards:

1. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes and compatible with surrounding residential uses;
2. Only the occupant(s) of the dwelling may be engaged in the home occupation;
3. The home occupation shall not alter the appearance of the dwelling;
4. The home occupation shall be conducted entirely within the main dwelling and confined completely to no more than one room;
5. A home occupation shall not be initiated until a current Business License is obtained in compliance with Chapter X.xx (Business Licenses and Fees) of this Code;
6. Displays, distribution, sale, or storage of merchandise on the premises, or off-site advertising signs shall not be allowed;
7. On-site signs, other than an unlit sign not exceeding two square feet flush-mounted on and parallel to the front of the structure, identifying the address and name of the business conducted on the premises, shall not be allowed;
8. Advertising (e.g., telephone directory) which identifies the home occupation by street address shall not be allowed;
9. Only one vehicle no larger than a one-ton truck may be used by the occupant(s) directly or indirectly in connection with a home occupation;
10. The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises. This requirement shall not be construed to include letter correspondence or normal FedEx or UPS type deliveries. The purpose of this requirement is to limit the number of deliveries of packages and equipment, that could/ would result in a substantial increase in the number of truck deliveries;
11. Encroachments into any required parking, setback, or open space areas shall not be allowed. Home occupation activities may not occur out-of-doors;

12. Use of power driven equipment having a motor(s) of more than five horsepower, unless determined to be similar to a normal household or hobby use, shall not be allowed;
13. Use of mechanical equipment, unless determined to be similar to a normal household or hobby use, shall not be allowed;
14. The use shall not create or cause dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/ hazardous materials, or vibration that can or may be considered a hazard/ nuisance;
15. Negative impacts that may be felt, heard, or otherwise sensed on adjoining parcels or public rights-of-way shall not be allowed;
16. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the dwelling. Utility consumption shall not exceed typical residential usage;
17. Creation of pedestrian or vehicular traffic or parking demand in excess of that customarily associated with the residential zoning district in which it is located shall not be allowed;
18. A Home Occupation Permit shall not be transferable;
19. Only two (2) home occupation may be conducted at the specified address. For purposes of this Subsection, a use shall be deemed "the only home occupation conducted" at a location if it involves services or goods of essentially one type, even though the owner may have more than one name, or be required to obtain more than one professional certification or Business License;
20. For rental property, the property owner's written authorization for the proposed use shall be obtained and submitted with the application for a Home Occupation Permit;
21. Any special condition(s) established by the Director and made part of the record of the Home Occupation Permit, as deemed necessary to carry out the purpose of this Section; and
22. All pre-existing home occupations shall conform with all applicable Zoning Ordinance requirements before or upon renewal of the annual Business License.

G. Conditions of approval. In approving a Home Occupation Permit, the Director may impose additional conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the purpose of this Section.

- H. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration), and those identified in Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Home Occupation Permit application.
- I. Inspections.** The Director shall have the right at any time, upon request, to enter and inspect the premises subject to a Home Occupation Permit in order to verify compliance with the locational and operational standards identified in Subsection F. (Operating Standards), above.

17.52.030 - Site Plan and Architectural Approval

- A. Purpose.** This Section establishes procedures for the City's review of the design aspects of proposed development (for example, building design, landscaping, site planning and development, and signs). These procedures are not intended to restrict imagination, innovation, or variety in design, but rather to focus on design issues and solutions that will have the greatest effect on community character and aesthetics, to encourage imaginative solutions and high-quality urban design. The purposes of this Section are, therefore, to:
1. Recognize the interdependence of land values and aesthetics and encourage the orderly and harmonious appearance of development within the community;
 2. Ensure that new uses and structures enhance their sites and are compatible with the highest standards of improvement in the surrounding neighborhoods;
 3. Better protect the increasing values, standards, and importance of land and development in the community;
 4. Retain and strengthen the visual quality of the community;
 5. Assist project developers in understanding the public's concerns for the aesthetics of development, and
 6. Ensure that development complies with all applicable City standards and guidelines, and does not adversely affect community health, safety, aesthetics, or natural resources.
- B. Applicability.** Table 5-2 identifies when Site Plan and Architectural Approval is required, and the responsible review authority.

Table 5-2 - APPLICABILITY OF SITE PLAN AND ARCHITECTURAL APPROVAL

Type of Project	Site Plan and Architectural Approval Requirement		
	Exempt	Director Review	SPARC Review
Individual single-family homes and accessory structures, including additions and alterations, under individual applications in the R-1, R-1E, and R-2 zoning districts.	O		
Ground floor additions and alterations deemed visually or functionally insignificant by the Director.	O		
Multiple single-family detached homes and accessory structures in the R-1, R-1E, and R-2 zoning districts. (1)		O	
Multi-family dwellings and accessory structures in the RMD and RHD zoning districts. (1)			O
Temporary structures that will be removed within one year. (2)		O	
Additions and alterations in all zoning districts, except the R-1, R-1E, R-2, RMD, and RHD zones, that do not meet the specific criteria above. (2) (3)		O	
Nonresidential development containing up to 10,000 square feet of total gross structure area. (3)		O	
Nonresidential development containing 10,000 square feet or more of total gross structure area. (3)			O
All other land uses.			O

Notes:

- (1) Only where the same basic design will be used more than once in the same subdivision.
- (2) Landscaping plans may be required.
- (3) Site Plan and Architectural Approval shall be required for new structures and addition or reconstruction projects that are equal to 50 percent or greater of the floor area of the existing structures on the site and where the cumulative square footage of a development project exceeds 10,000 square feet, even though individual structures may be less than 10,000 square feet.

C. Timing of Site Plan and Architectural Approval. When required, Site Plan and Architectural Approval shall be granted before the issuance of the Building Permit or the establishment of a temporary open lot use.

D. Site Plan and Architectural Approval process. The Site Plan and Architectural Approval process shall be conducted as follows.

- 1. Application preparation, filing, initial processing.** An application for Site Plan and Architectural Approval shall be prepared, filed and processed in compliance with Chapter 17.50 (Application Filing and Processing).
- 2. Application contents.** The application shall be made on forms furnished by the Department, and shall be accompanied by the information identified in the Department handout for Site Plan and Architectural Approval applications. It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection E. (Findings and decision), below.
- 3. Evaluation of proposal.** The review authority shall consider the design, location, site layout, and the overall effect of the proposed project upon surrounding properties and the City in general. The review shall compare the proposed project to applicable development standards, design guidelines, and other City regulations.
- 4. Site Plan and Architectural Approval by the Director.** Decisions of the Director on Site Plan and Architectural Approval applications shall comply with Subsection E.; conditions of approval may be imposed in compliance with Subsection F.
 - a. Meeting.** A meeting shall not be required unless requested in writing by an interested party before the Director's action.
 - b. Director's action.** Specified applications for Site Plan and Architectural Approval, as identified in Table 5-2 (Applicability of Site Plan And Architectural Approval), above may be approved or disapproved by the Director.
 - c. Referral to SPARC.** The Director may defer action on a Site Plan and Architectural Approval application and instead refer the matter to the SPARC for review and decision in compliance with following Subsection D.6.
- 5. Site Plan and Architectural Approval by the SPARC.**
 - a. SPARC's decision.** Decisions of the SPARC on Site Plan and Architectural Approval applications shall comply with Subsection E. and conditions of approval may be imposed in compliance with Subsection F., below.
 - b. Notice and meeting.** Notice of the SPARC meeting shall be given in compliance with Chapter 17.88 (Public Hearings).
 - c. Site Plan and Architectural Approval.** An application for Site Plan and Architectural Approval shall be considered by the SPARC following approval of the project's land use entitlement by the applicable review authority.

E. Findings and decision. The applicable review authority may approve a Site Plan and Architectural Approval application only after first finding that:

1. The design and layout of the proposed project would:
 - a. Be consistent with the development and design standards/ guidelines of the applicable zoning district;
 - b. Not interfere with the use and enjoyment of neighboring existing or future developments, and not create traffic or pedestrian hazards;
 - c. Maintain and enhance the attractive, harmonious, and orderly development contemplated by this Zoning Ordinance; and
 - d. Provide a desirable environment for its occupants, neighbors, and visiting public through good aesthetic use of durable materials, texture, and color.
2. The proposed development:
 - a. Would not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity; and
 - b. Has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the *Lodi Environmental Review Guidelines*.

F. Conditions of approval. In granting Site Plan and Architectural Approval, the review authority shall impose conditions as necessary to ensure compatibility with surrounding uses, and to preserve the public health, safety, and welfare. The conditions may include requirements regarding buffers, colors and materials, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, etc., deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection E. (Findings and decision), above.

G. Post approval procedures. The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration), and those identified in Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Site Plan and Architectural Approval application.

17.52.040 - Temporary Activity Permits

- A. Purpose.** This Section establishes procedures for the granting of Temporary Use Permits that allow short-term activities that may not meet the normal development or use standards of the applicable zoning district, but may be acceptable because of their temporary nature.
- B. Applicability.** Temporary land uses shall not be established, operated, or conducted in any manner without the approval and maintenance of a valid Temporary Use Permit in compliance with this Section. The following two categories of temporary uses identify the level of permit required, if any, based on the proposed duration, size, and type of use:
1. Exempt temporary uses are identified in Subsection C. (Exempt temporary uses), below; or
 2. Temporary Use Permits are identified in Subsection D. (Allowed temporary uses), below.
- C. Exempt temporary uses.** The following minor and limited duration temporary uses are exempt from the requirement for a Temporary Use Permit. Uses that do not fall within the categories defined below shall comply with Subsection D. (Allowed temporary uses), below.
1. **Car washes for fund raising.** Car washes, limited to a maximum of two days each month for each sponsoring organization, on non-residential properties. Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with 501 (c) of the Federal Revenue and Taxation Code.
 2. **Construction yards — On-site.** On-site contractors' construction yards, in conjunction with an approved construction project on the same site. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs.
 3. **Emergency facilities.** Emergency public health and safety needs/ land use activities.
 4. **Garage sales.** Garage sales are exempt from the requirement for a Temporary Use Permit provided that sales occur no more often than two times per year per residence, for a maximum of three consecutive days each, or one time per year, for a maximum of six consecutive days each.

D. Allowed temporary activity . The following temporary uses may be allowed, subject to the issuance of a Temporary Use Permit by the Director. Uses that do not fall within the categories defined below shall comply with the use and development regulations and land use permit review provisions that otherwise apply to the property.

- 1. Construction yards — Off-site.** Off-site contractors' construction yards, in conjunction with an approved construction project. The permit shall expire and the construction yard shall be removed immediately upon completion of the construction project, or the expiration of the companion Building Permit authorizing the construction project, whichever first occurs. (See also Subsection D.11, below, regarding temporary work trailers.)
- 2. Events.** Outdoor events on private property including the following:
 - a. Amusement rides, arts and crafts exhibits, auctions, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, outdoor entertainment/ sporting events, rodeos, rummage sales, second hand sales, swap meets, and tent revivals for 10 consecutive days or less, or six two-day weekends, within a 12-month period.
 - b. Outdoor meetings, group activities, or sales within parking areas, for seven consecutive days or less, within a 180-day period.
- 3. Outdoor displays/sales.** The temporary outdoor display/ sales of merchandise (e.g., parking lot and sidewalk sales), in compliance with Section 17.38.070 (Outdoor Display and Retail Activities) shall be allowed only if the merchandise displayed is regularly sold on the same site. These activities shall be located immediately adjacent to the structure, and their duration shall not exceed three consecutive days within a 90-day period. Any sales activity proposed within a public right-of-way shall require an encroachment permit.
- 4. Outdoor sales of flowers and produce.** The temporary outdoor sales of items (e.g., flowers, fruits, grapes, vegetables, etc.) grown on the subject property, in compliance with Section 17.38.070 (Outdoor Display and Retail Activities) which shall be allowed only if the property is engaged in agricultural production for the duration of the temporary use. The maximum duration shall not exceed 180 consecutive days, within a one-year period.
- 5. Residence.** A mobile home as a temporary residence of the property owner when a valid Building Permit for a new single-family dwelling is in force, or for temporary caretaker quarters during the construction of a subdivision, multi-family, or non-residential project. The permit may be approved for a specified duration, or upon expiration of the Building Permit, whichever first occurs.

6. **Seasonal sales lots.** Seasonal sales activities (for example, pumpkins, Christmas trees, etc.) including temporary residence/ security trailers, on non-residential properties, for 45 days or less for each seasonal product, within a 12-month period.
7. **Temporary model homes.** Temporary model homes and related facilities may be established within the area of an approved residential subdivision project, solely for the first sale of homes.
8. **Temporary real estate sales offices.** A temporary real estate sales office may be established within the area of an approved development project, solely for the first sale of homes.
9. **Temporary structures.** A temporary classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved, for a maximum time period of 24 months, as an accessory use or as the first phase of a development project, in the commercial and industrial zoning districts.
10. **Temporary work trailers.**
 - a. A trailer or mobile home may be used as a temporary work site for employees of a business:
 - (1) During construction of a subdivision or other development project when a valid Building Permit is in force; or
 - (2) Upon demonstration by the applicant that the temporary work site is a short-term necessity, while a permanent work site is being obtained.
 - b. A permit for temporary work trailers may be granted for up to 24 months.
11. **Similar temporary uses.** Similar temporary uses which, in the opinion of the Director, are compatible with the zoning district and surrounding land uses, and are necessary because of unusual or unique circumstances beyond the control of the applicant.

E. Application filing, processing, and review. An application for a Temporary Use Permit shall be filed with the Department and processed in the following manner.

1. **Application contents.** The application shall be made on forms furnished by the Department, and shall be accompanied by the information identified in the Department handout for Temporary Use Permit applications. It is the responsibility of the applicant to establish evidence in support of the findings required by Subsection G. (Findings and decision), below.
2. **Time for filing.** An application for a Temporary Use Permit shall be submitted for approval at least **10 days before** the date that the proposed use is scheduled to take place.

3. **Public hearing not required.** A public hearing shall not be required for a decision on a Temporary Use Permit.

F. Standards. Standards for floor areas, heights, landscaping, parking, setbacks, and other structure and property development standards that apply to the category of use or the zoning district of the subject site shall be used as a guide for determining the appropriate development standards for temporary uses.

1. **Adjustment of standards.** The Director may authorize an adjustment from the specific standards deemed necessary or appropriate consistent with the temporary nature of the use.
2. **Removal of materials and structures associated with the temporary use.** All materials and structures associated with the temporary use shall be removed within 10 days from the actual termination of operations, or after the expiration of the Temporary Use Permit, whichever first occurs.
3. **Other permits required.** Temporary uses may be subject to additional licenses, inspections, or permits required by applicable local, State, or Federal requirements.

G. Findings and decision.

1. A Temporary Use Permit may be approved, modified, conditioned, or disapproved by the Director, without the requirement for a noticed public hearing.
2. The Director may defer action and refer the application to the Commission for review and decision at a scheduled public hearing.
3. The Director may approve or conditionally approve a Temporary Use Permit application, only after first finding that:
 - a. The establishment, maintenance or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
 - b. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;
 - c. Approved measures for the removal of the use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Zoning Ordinance; and
 - d. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA).

- H. Conditions of approval.** In approving a Temporary Use Permit, the Director may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above.
- I. Condition of site following temporary use.** Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Zoning Ordinance. The review authority may require appropriate security before initiation of the use to ensure proper cleanup after the use is finished.
- J. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration), and those identified in Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Temporary Use Permit application.

17.52.050 - Use Permits

- A. Purpose.** Use Permits are intended to allow for activities and uses which may be desirable in the applicable zoning district and compatible with adjoining land uses, but whose effect on a site and its surroundings cannot be determined before being proposed for a particular location. The procedures of this Section provide for the review of the configuration, design, location, and potential impacts of the proposed use, to evaluate the compatibility of the proposed use with surrounding uses and the suitability of the use to the site.
- B. Applicability.**
1. A Use Permit is required to authorize proposed land uses and activities identified by Article 2 (Zoning Districts and Allowable Land Uses) as being allowable in the applicable zoning district subject to the approval of a Use Permit; and
 2. To allow the extension of a use for not more than 50 feet into a more restricted zoning district where the boundary line divides a "parcel of record" as defined in Article 7 (Definitions).
- C. Application filing and processing.** An application for a Use Permit shall be filed and processed in compliance with Chapter 17.50 (Application Filing and Processing).
- D. Project review, notice, and hearing.**
1. Each Use Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.
 2. The Commission shall conduct a public hearing on an application for a Use Permit before the approval or disapproval of the permit.
 3. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.88 (Public Hearings).
- E. Findings and decision.** Following a public hearing, the Commission may approve or disapprove an application for a Use Permit. The Commission shall record the decision and the findings upon which the decision is based. The Commission may approve a Use Permit only after first finding that:
1. The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance;
 2. The proposed use is consistent with the General Plan and any applicable specific plan;

3. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
4. The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;
5. The location, size, design, and operating characteristics of the proposed use would be compatible with the existing and future land uses in the vicinity; and
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the *Lodi Environmental Review Guidelines*.

F. Conditions of approval. In approving a Use Permit, the Commission may impose conditions (e.g., buffers, hours of operation, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection E. (Findings and decision), above.

G. Post approval procedures. The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration), and those identified in Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Use Permit application.

17.52.060 - Variances and Administrative Deviations

A. Purpose. The provisions of this Section allow for Variances from the development standards of this Zoning Ordinance.

1. Special privileges prohibited.

- a. A Variance may only be granted when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other conditions, the strict application of this Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary, and non-self created, hardship or unreasonable regulation which makes it obviously impractical to require compliance with the development standards.
- b. A Variance shall not be granted that would have the effect of granting a special privilege not shared by other property owners in the vicinity and under identical zoning districts, or which is contrary to the public convenience, health, interest, safety, or welfare.

2. Does not extend to uses. The power to grant Variances does not extend to allowable land uses; flexibility in allowable land uses is provided in Section 17.52.050 (Use Permits).

B. Review authority. Variances may be granted in compliance with the following:

- 1. Director.** The Director may grant Administrative Deviations, or may defer action and refer the application to the Commission, in compliance with Subsection D., below, and State law (Government Code Section 65901).
- 2. Commission.** The Commission may grant Variances in compliance with Subsection D.,

C. Allowable Administrative Deviations. The Director may approve an application for an Administrative Deviation for the development standards identified in Table 5-3, below, and for the sign standards of Chapter 17.36 (Signs) as provided in Section 17.36.080 (Exceptions to Sign Standards).

Table 5-3 - ALLOWABLE ADMINISTRATIVE DEVIATIONS

Types of Administrative Deviations Allowed	Maximum Adjustment
1. Area requirements. A decrease in the minimum area requirements. (Not including minimum parcel area requirements S see number 6., below.)	15 percent
2. Fence or wall height. An increase in the maximum allowable height of a fence or wall, in compliance with Section 17.30.080 (Walls, Fences, and Hedges)	Up to a 2 foot increase
3. Floor Area Ratio (FAR). An increase in the maximum allowable FAR.	10 percent
4. Landscaping area. A decrease in the minimum landscaping area requirements.	20 percent
5. Loading. A decrease in the number of required loading spaces, but not exceeding two spaces.	30 percent
6. Parcel area. A decrease in the minimum required parcel area.	10 percent
7. Parcel coverage. An increase in the maximum allowable parcel coverage.	10 percent
8. Parcel depth or width. A decrease in the minimum required parcel depth or width, only when the total parcel area requirements are met.	10 percent
9. Parking. A decrease in the number of required parking spaces. (Not exceeding 2 spaces.)	25 percent
10. Parking lot standards. A decrease in the minimum parking lot standards (e.g., aisle, driveway, and space widths).	30 percent
11. Projections. An increase in the allowable projection of canopies, cornices, eaves, fireplaces, landings, masonry chimneys, overhangs, raised porches, stairways, and steps into a required setback areas, but no closer than 3 feet to any property line.	20 percent
12. Setback areas. A decrease in the required setbacks.	
Front setback: But no closer to the front property line than 10 feet.	40 percent
Side setbacks: But no closer to the side property lines than 3 feet.	40 percent
Rear setback: But no closer to the rear property line than 5 feet.	30 percent
13. Signs. An increase in the maximum allowable sign area or height.	10 percent
14. Structure height. An increase in the maximum allowable structure height, but not to exceed an increase of five feet.	30 percent
15. Other standards. The Director shall also be allowed to vary other standards including minor operational/ performance standards relating to dust, glare, hours of operation, landscaping, light, noise, etc.	25 percent
16. Required Variance. A request which exceeds the limitations identified in this Subsection shall require the filing of a Variance application in compliance with Subsection D., below.	

D. Variances. The Commission may grant an adjustment from the requirements of this Zoning Ordinance governing **only** the following development standards:

- 1. Development standards.** Any development standard identified in Subsection C. (Administrative Deviations), above where the requested adjustment exceeds the maximum limits for an Administrative Deviation;
- 2. Dimensional standards.** Dimensional standards including distance-separation requirements, fence and wall requirements, landscape and paving requirements, lighting, loading spaces, parcel area, parcel dimensions, parking areas, open space, setbacks, structure heights, etc.;
- 3. Numerical standards.** Number of off-street parking spaces, loading spaces, landscaping, etc.;
- 4. Signs.** Sign regulations (other than **prohibited** signs);
- 5. Alteration, enlargement, or reconstruction of nonconformities.** To allow the alteration or enlargement of a nonconforming use, or the alteration, enlargement, or reconstruction of a structure in which a nonconforming use is conducted, when the changes (e.g., alteration, enlargement, or reconstruction) would be of distinct benefit to the zoning district in which the use or structure is located; and
- 6. Other.** Other standards including operational/ performance standards relating to dust, glare, hours of operation, landscaping, light, noise, number of employees, etc.

E. Application requirements. An application for a Variance shall be filed in compliance with Chapter 17.50 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department hand out for Variance applications. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection G. (Findings and decision), below.

F. Notice and hearings.

- 1. Administrative Deviations.** A public hearing shall NOT be required for the Director's decision on an Administrative Deviation.
- 2. Variances.**
 - a. A public hearing shall be required for all Variances, which shall be considered by the Commission.
 - b. A public hearing shall be scheduled once the Director has determined the application complete.
 - c. Noticing of the public hearing shall be given in compliance with Chapter 17.88 (Public Hearings).

G. Findings and decision. The applicable review authority shall record the decision in writing with the findings on which the decision is based, in compliance with State law (Government Code Section xxxxx). Following a public hearing, if required, the review authority may approve a Variance application, with or without conditions, only after first finding that:

1. There are special circumstances applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts or creates an unnecessary and non-self created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the development standards;
2. Granting the Variance would:
 - a. Be necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district, and denied to the subject property owner;
 - b. Be consistent with the actions, goals, objectives, and policies of the General Plan and any applicable specific plan;
 - c. Not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and in the same zoning district; and
 - d. Not be materially detrimental to the public convenience, health, interest, safety, or welfare of the City, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.
3. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and the *Lodi Environmental Review Guidelines*.

H. Compliance with findings. In approving a Variance, the review authority may impose conditions (e.g., buffers, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, etc.) deemed reasonable and necessary to:

1. **Compliance with Section.** Ensure compliance with the general purpose of this Section, and the actions, goals, objectives, and policies of the General Plan and any applicable specific plan;
2. **Special privileges prohibited.** Ensure that the Variance does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located;

- 3. Compliance with findings.** Ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above; and
 - 4. Protect interests.** Protect the best interests of the surrounding property or neighborhood.
 - I. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration), and those identified in Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Variance application.

17.52.070 - Planned Development Permits

- A. Purpose.** Planned Development Permits are intended to promote and encourage flexibility in the City's residential, commercial, and industrial zoning districts relating to property development, design, and open space areas, while protecting the public health, safety, general welfare, integrity, and character of the City, and ensuring consistency with the General Plan and any applicable specific plan.
1. Projects proposed through Planned Development Permit applications are encouraged and expected to produce a comprehensive development of greater quality than that normally resulting from more traditional development.
 2. Project review shall determine whether the Planned Development Permit should be approved by weighing the public need for, and the benefits to be derived from, the proposed project against the potential negative effects it may cause.
- B. Applicability.** An application for a Planned Development Permit shall be considered by the Commission and shall be available, at the discretion of the applicant, for development within all zoning districts of the City.
1. **Land use activity.** A Planned Development Permit may not authorize a land use activity that is not allowed in the subject zoning district.
 2. **General Plan compliance.** Strict compliance with the purpose and intent of the General Plan and any applicable specific plan shall be required.
 3. **Modify standards.**
 - a. The permit may adjust or modify, where necessary and justifiable, all applicable development standards (e.g., building envelope [coverage, height, and setbacks], fence and wall heights, landscaping, off-street parking [design and ratios], open space, street layout, etc.) identified in this Zoning Ordinance, with the exception of an increase in the applicable density/ intensity provisions.
 - b. Residential development projects with increased density or intensity standards may only be approved by the Council in compliance with State law (Government Code Section 65915).
- C. Application filing and processing.** An application for a Planned Development Permit shall be filed and processed in compliance with Chapter 17.50 (Application Filing and Processing).
- D. Project review, notice, and hearing.**
1. Each Planned Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section.

The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. The Commission shall conduct a public hearing on an application for a Planned Development Permit before the approval or disapproval of the permit.
3. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.88 (Public Hearings).

E. Findings and decision. Following a public hearing, the Commission may approve or disapprove an application for a Planned Development Permit. The Commission shall record the decision and the findings upon which the decision is based. The Commission may approve a Planned Development Permit only after first finding that:

1. The proposed development is:
 - a. Allowed within the subject base zoning district;
 - b. Generally in compliance with all of the applicable provisions of this Zoning Ordinance relating to both on- and off-site improvements that are necessary to accommodate flexibility in site planning and property development and to carry out the purpose, intent, and requirements of the respective base zoning district, including prescribed development standards and applicable design guidelines; and
 - c. Consistent with the General Plan and any applicable specific plan.
2. The proposed project would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than which might otherwise occur from more traditional development applications;
3. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and base zoning district in which the property is located;
4. The subject site is:
 - a. Physically suitable for the type and density/ intensity of development being proposed;

- b. Adequate in shape and size to accommodate the use and all fences and walls, landscaping, loading, open space, parking, yards, and other features generally required by this Zoning Ordinance and necessary to support the proposed development; and
 - c. Served by streets adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.
- 5. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).
- F. Conditions of approval.** In approving a Planned Development Permit, the Commission may impose conditions (e.g., buffers, landscaping and maintenance, lighting, off-site improvements, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection E. (Findings and decision), above.
- G. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 6 (Zoning Ordinance Administration), and those identified in Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Planned Development Permit application.

17.52.080 - Certificates of Occupancy

- A. Purpose.** The provisions of this Section allow for issuance of a Certificate of Occupancy authorizing the use of land or structures in compliance with this Zoning Ordinance.
- B. Applicability.** Vacant land shall not be used or occupied, except for agricultural purposes, and no structure shall be altered, erected, moved, occupied, or used until a Certificate of Occupancy has been issued by the Director or his designee .
- C. Procedural requirements.**
1. A Certificate of Occupancy for the use of vacant land or for a change in the character of the use of land , as provided in this Section, except for agricultural purposes, shall be applied for before the land is occupied or used.
 2. The Certificate of Occupancy shall be issued within five days after the application has been made; provided, the use is in compliance with the provisions of this Zoning Ordinance.
 3. A Certificate of Occupancy for a new structure or the alteration, conversion, or reconstruction of an existing structure shall be applied for together with the application for Building Permit. The Certificate shall be issued, if after inspection it is found that the structure complies with the provisions of this Zoning Ordinance and all other the applicable requirements of law or ordinance.
 4. A temporary Certificate may be issued for the temporary use of a portion of the structure before the completion and occupancy of the entire structure. However, the temporary Certificate shall only be issued under restrictions and provisions that will adequately ensure the safety of the occupants.
 5. The Certificate of Occupancy shall state that the structure or proposed use of a structure or land is in compliance with all applicable City, State, and Federal laws and regulations.
 6. Copies of all Certificates shall be kept on file in the Community Development Department for public inspection, with copies of a Certificate furnished on request, to any person having a proprietary or tenant interest in the structure.
 7. Fees shall not be charged for a Certificate of Occupancy.

CHAPTER 17.54 - PERMIT IMPLEMENTATION, TIME LIMITS, AND EXTENSIONS

Sections:

- 17.54.010 - Purpose of Chapter
- 17.54.020 - Effective Dates
- 17.54.030 - Performance Guarantees
- 17.54.040 - Time Limits and Extensions
- 17.54.050 - Changes to an Approved Project
- 17.54.060 - Permits to Run with the Land
- 17.54.070 - Resubmittals
- 17.54.080 - Covenants of Easement

17.54.010 - Purpose of Chapter

This Chapter provides requirements for the implementation or “exercising” of the permits required by this Zoning Ordinance, including time limits, and procedures for extensions of time.

17.54.020 - Effective Dates

The approval of a land use permit (e.g., Site Plan and Architectural Approval, Planned Development Permit, Temporary Use Permit, Use Permit, or Variance) shall become effective on the 6th business day following the date of application approval by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 17.64 (Appeals).

17.54.030 - Performance Guarantees

A permit applicant may be required by conditions of approval or by action of the Director to provide adequate security to guarantee the faithful performance and proper completion of any approved work, and/or compliance with conditions of approval imposed by the review authority. The provisions of this Section apply to performance guarantees for projects authorized by any of the land use permits required by this Zoning Ordinance.

- A. Form and amount of security.** The required security shall be in a form approved by the Director, upon recommendation of the City Attorney. The amount of security shall be as determined by the Director to be necessary to ensure proper completion of the work and/or compliance with conditions of approval.
- B. Security for maintenance.** In addition to any improvement security required to guarantee proper completion of work, the Director may require security for maintenance of the work, in an amount determined by the Director to be sufficient to ensure the proper maintenance and functioning of improvements.

C. Duration of security. Required improvement security shall remain in effect until final inspections have been made and all work has been accepted by the Director, or until any warranty period required by the Director has elapsed. Maintenance security shall remain in effect for one year after the date of final inspection.

D. Release or forfeit of security.

1. Upon satisfactory completion of work and the approval of a final inspection (or after the end of the required time for maintenance security), the improvement and/ or maintenance deposits or bonds shall be released.
2. Upon failure to complete the work, failure to comply with all of the terms of any applicable permit, or failure of the completed improvements to function properly, the City may do the required work or cause it to be done, and collect from the permittee or surety all the costs incurred by the City, including the costs of the work, and all administrative and inspection costs.
3. Any unused portion of the security shall be refunded to the funding source after deduction of the cost of the work by the City.

17.54.040 - Time Limits and Extensions

A. Time limits.

1. Unless conditions of approval or other provisions of this Zoning Ordinance establish a different time limit, any permit or approval granted in compliance with Chapter 17.52 (Permit Approval or Disapproval) that is not exercised within 18 months of its approval shall expire and become void, except where an extension of time is approved in compliance with Subsection B., below.
2. The permit shall not be deemed "exercised" until the permittee has commenced actual construction (after obtaining any required construction permit) or has actually commenced the allowed use on the subject site in compliance with the conditions of approval.
3. For the purposes of this Zoning Ordinance, actual construction shall mean the placing of construction materials in a permanent manner, excavation of a basement, or demolition of existing structures preparatory to rebuilding; provided, that in all cases construction work shall be diligently pursued until completion of the subject structure(s).
4. The land use permit shall remain valid after it has been exercised as long as a Building Permit is active for the project, or a final building inspection or Certificate of Occupancy has been granted.
5. If a project is to be developed in approved phases, each subsequent phase shall be exercised within 18 months from the date that the previous phase was exercised,

unless otherwise specified in the permit, or the permit shall expire and be deemed void. If the project also involves the approval of a Tentative Map, the phasing shall be consistent with the Tentative Map and the permit shall be exercised before the expiration of the Tentative Map, or the permit shall expire and be deemed void.

B. Extensions of time. Upon request by the applicant, the review authority may extend the time for an approved permit to be exercised in the following manner.

1. The applicant shall file a written request for an extension of time with the Department at least 10 days before the expiration of the permit, together with the filing fee required by the Council's Fee Resolution.
2. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the review authority determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the review authority may grant a time extension for up to an additional 18 months from the date of the decision to extend the permit, provided that the review authority first finds that:
 - a. The proposed extension is consistent with the General Plan, and any applicable specific plan, and the overall project remains consistent with those plans as they exist at the time the extension request is being considered; and
 - b. There are adequate provisions for public services and utilities (e.g., access, drainage, fire protection, sewers, water, etc.), to ensure that the proposed change would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.
3. No more than **one** time extension shall be granted.

C. Hearing on expiration. At the request of the applicant, the review authority may hold a hearing on any proposed expiration of a permit, in compliance with Chapter 17.68 (Public Hearings).

17.54.050 - Changes to an Approved Project

A new development project or land use authorized through a permit granted in compliance with this Zoning Ordinance shall be established only as approved by the review authority and subject to any conditions of approval, except where changes to the project are approved in compliance with this Section.

A. Request for change. An applicant shall request desired changes in writing, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request. Changes may be requested either before or after construction or establishment and operation of the approved use.

- B. Minor changes.** The Director may approve changes to an approved site plan, architecture, or the nature of the approved use if the changes:
1. Are consistent with all applicable provisions of this Zoning Ordinance;
 2. Do not involve a feature of the project that was specifically addressed in, or was a basis for findings in a negative declaration or environmental impact report for the project;
 3. Do not involve a feature of the project that was specifically addressed in, or was a basis for conditions of approval for the project or that was a specific consideration by the review authority in the approval of the permit; and
 4. Do not expand the approved floor area or any outdoor activity area by 10 percent or more over the life of the project.
- C. Major changes.** Changes to the project that do not comply with Subsection B., above, shall only be approved by the review authority through a new permit application.

17.54.060 - Permits to Run with the Land

A land use permit granted in compliance with this Chapter shall continue to be valid upon a change of ownership (e.g., of the site, structure, or use that was the subject of the permit application), provided that the use remains in compliance with all applicable provisions of this Zoning Ordinance and any conditions of approval.

17.54.070 - Resubmittals

- A. Resubmittals prohibited within 12 months.** For a period of 12 months following the disapproval or revocation/ modification of a discretionary land use permit, entitlement, or amendment granted in compliance with this Zoning Ordinance, no application for the same or substantially similar discretionary permit, entitlement, or amendment for the same site shall be filed.
- B. Director's determination.** The Director shall determine whether the new application is for a discretionary land use permit or other approval which is the same or substantially similar to the previously disapproved or revoked permit, entitlement, or amendment.
- C. Appeal.** The determination of the Director may be appealed to the Commission, in compliance with Chapter 17.64 (Appeals).
- D. Council waiver.** The Council may waive the prohibition in Subsection A., above if the Council finds that by reason of changed legal, physical, or sociological circumstances, reconsideration would be in the best interests of the City.

17.54.080 - Covenants of Easements

- A. Applicability.** When necessary to achieve the land use goals of the City, the City may require a property owner holding property in common ownership to execute and record a Covenant of Easement in favor of the City, in compliance with Government Code Sections 65870 et seq.
1. A Covenant of Easement may be required to provide for emergency access, landscaping, light and air access, ingress and egress, parking, solar access, or for open space.
 2. The Covenant of Easement may be imposed as a condition of approval by the review authority.
- B. Form of covenant.** The form of the Covenant shall be approved by the City Attorney, and the Covenant of Easement shall:
1. Describe the real property to be subject to the easement;
 2. Describe the real property to be benefitted by the easement;
 3. Identify the City approval or permit granted which relied on or required the Covenant; and
 4. Identify the purpose(s) of the easement.
- C. Recordation.** The Covenant of Easement shall be recorded in the County Recorder's Office.
- D. Effect of covenant.** From and after the time of its recordation, the Covenant of Easement shall:
1. Act as an easement in compliance with State law (Chapter 3 (commencing with Section 801) of Title 2 of Part 2 of Division 2 of the Civil Code), except that it shall not merge into any other interest in the real property. Civil Code Section 1104 shall be applicable to the conveyance of the affected real property; and
 2. Impart notice to all persons to the extent afforded by the recording laws of the State. Upon recordation, the burdens of the Covenant shall be binding on, and the Covenant shall benefit, all successors-in-interest to the real property.
- E. Enforceability of covenant.** The Covenant of Easement shall be enforceable by the successors-in-interest to the real property benefitted by the Covenant and the City. Nothing in this Section creates standing in any person, other than the City, and any owner of the real property burdened or benefitted by the Covenant, to enforce or to challenge the Covenant or any requested amendment or release.

- F. Release of covenant.** The release of the Covenant of Easement may be effected by the Commission, or the Council on appeal, following a noticed public hearing in compliance with Chapter 17.68 (Public Hearings).
1. The Covenant of Easement may be released by the City, at the request of any person, including the City or an affected property owner, on a finding that the Covenant, on the subject property, is no longer necessary to achieve the land use goals of the City.
 2. A notice of the release of the Covenant of Easement shall be recorded by the Director with the County Recorder's Office.
- G. Fees.** The City shall impose fees to recover the City's reasonable cost of processing a request for a release. Fees for the processing shall be established by the Council's Fee Resolution.